

***Civility and Recovery:***

***Reconciling Compatible Interests in the  
Commercial Street Area***

***A Report to the City of Springfield Department of Planning***

***The American Alliance for Rights & Responsibilities***

***May 1995***

***Rob Teir, General Counsel***

**1146 Nineteenth Street, N.W., Suite 250  
Washington, D.C. 20036-3703  
(202) 785-7844**



“

*There is no need to apologize for trying to minimize harmful behaviors that make it difficult to live in an area, drive customers away, and make the area a less attractive place to work, live, or visit. It is not cruel to expect and insist upon minimum standards of conduct, uniformly applied. People who are hurting often hurt other people, and the same problems that leave people without permanent housing and family connections often result in harmful conduct, such as trespassing, litter, public inebriation, and public urination. All people, whether homeless or not, have a responsibility to conform their behavior to fair public standards.*

*The interested parties should understand, as most do, that they have disagreements and different interests - but they do not have enemies. With changes, property values should go up, the business environment should improve, street safety and civility should increase, and more people helped find the road to recovery.*

”



**Civility and Recovery:**

**Reconciling Compatible Interests in the  
Commercial Street Area**

**TABLE OF CONTENTS**

Introduction .....	1
Background .....	1
The AARR .....	1
The AARR's Work in Springfield .....	2
Report by Prof. Paul Rollinson .....	3
Reasons for Hope .....	4
Observations .....	5
Legitimate Interests .....	5
The Commercial Street Situation is a City-Wide Problem .....	6
Springfield as a Magnet for the Homeless .....	6
General Suggestions .....	7
Focus on Recovery, Not Rights .....	7
Street Order Maintenance Should Not Wait for Personal Redemption or Societal Reform .....	7
Accept Your Responsible Neighbors .....	8
Recommendations .....	8
Role of the City .....	9
Scope of the City's Responsibility .....	9
Public Conduct Controls .....	10
Expanding the Police Presence in the Commercial Street Area .....	12
Enforce and Expand the Reach of State Laws .....	12
Outreach Worker .....	12

Education Campaign .....	13
Role of the Providers .....	13
Practicing Tough Love .....	13
Saying No .....	13
Tying Services to Recovery .....	14
Tying Services to Neighborly Conduct .....	14
Service Providers as Intervenors .....	15
Tailor Free Groceries to Clients' Needs .....	15
Social Service Providers as Good Neighbors .....	15
Consult with the Community .....	16
Concentration and Size of the Service Providers .....	16
Conclusion .....	18

# ***Civility and Recovery:***

## ***Reconciling Compatible Interests in the Commercial Street Area***

***A Report to the City of Springfield Department of Planning***

***By***

***The American Alliance for Rights & Responsibilities***

### **I. Introduction**

The American Alliance for Rights & Responsibilities (AARR) is pleased to present this report to the City of Springfield. The report provides our observations and suggestions for the City, the service providers on Commercial Street, and residents and businesses in the Commercial Street area. This report is aimed at improving neighborhood life and the commercial environment in the area, while enabling charitable providers to assist the city's homeless population. The AARR is convinced that these goals are entirely compatible, and that communities can care for the less fortunate while maintaining an area where people want to live, work, shop, and run businesses. The AARR is honored to be part of this effort, and grateful for the warm welcome to Springfield.

### **II. Background**

#### **A. The AARR**

The AARR provides assistance to city governments, city officials, community groups, and business development organizations on urban quality of life initiatives. Our work includes drafting and disseminating model ordinances, defending the constitutionality of quality of life measures, participating in judicial challenges to public space regulations (including in public school and public housing initiatives), as well as publishing and speaking on these issues.

The AARR is committed to an approach that provides for reasonable standards of conduct in public spaces, to ensure that they are usable and welcoming to all segments of urban communities. The AARR believes that this goal can be achieved without infringing upon constitutional rights, and while providing services to those less fortunate, including the homeless.

In the past, the AARR has participated in litigation on these issues in Dallas, Orange County, San Francisco, New York, Seattle, Miami, South Carolina, and elsewhere. We have written the anti-aggressive solicitation ordinance adopted in Washington, Baltimore, Long Beach, Berkeley, Santa Barbara, Santa Cruz, and Cincinnati. Our ordinance has also been adopted by the Pittsburgh City Council and is before the New York City Council.

In addition, the AARR has worked with city officials and community groups to address such problems as open-air drug markets, excessive noise, proliferation of street vendors, crime and drugs in public housing, urban camping, and traffic sobriety.

B. The AARR's Work in Springfield

The AARR was contacted by officials from the Planning Department of the City of Springfield. We were told that the city's Commercial Street area was hurting because of problems and perceptions caused by the services offered by two charitable organizations located in the area, and the use of the area by homeless individuals. We were asked to provide suggestions to improve neighborhood life and the commercial environment in the area.

Rob Teir, the AARR General Counsel, visited Springfield in April 1995. He was joined in the visit by Dr. Donald Burnes and Alice Baum, the authors of *A Nation in Denial: The Truth About Homelessness*. Dr. Burnes and Ms. Baum's expertise and experience on treatment and services for the homeless complimented Mr. Teir's background, which is street order maintenance and constitutional issues raised by public space regulation.

Mr. Teir, Dr. Burnes, and Ms. Baum met with officials from The Kitchen, Victory Mission, Commercial Club, Mid Town Neighbors Association, and the Urban District Alliance. The group also met with city officials, including the City Manager, and representatives of the Planning Department, the City Attorney's Office, and the Springfield Police Department. We also joined a weekly breakfast meeting of the Good Neighbor Alliance, a gathering of all interested parties.

At the conclusion of the AARR's three day visit, we presented our preliminary findings to an assembled group of interested parties. This written report details those findings.

After this report is distributed to city officials and the groups mentioned above, Mr. Teir will return to Springfield to discuss these findings with the interested parties, in the hopes of reaching an agreement on a plan of action, help alleviate and avoid divisiveness, provide an environment where real help is provided to the destitute, and where neighborhood



revitalization can occur.<sup>1</sup>

### III. Report by Prof. Paul Rollinson

Prior to the AARR's initial trip to Springfield, Prof. Paul Rollinson of Southwestern Missouri State University prepared a data collection and issue identification report, "Impact of Homeless Persons on Commercial Street and Mid Town." The report set forth the scope and demographics of Springfield's homeless problem. Most notably, Prof. Rollinson concluded that "the most significant and visible homeless issue on Commercial Street and in Mid Town is alcoholism." Prof. Rollinson went on to emphasize the central role of alcoholism and substance abuse in creating and maintaining "the homeless condition of people in Springfield, in explaining the deficiencies in the services provided to this population, and in explaining the anti-social behaviors that have plagued the Commercial Street area."

The AARR -- and the City of Springfield -- benefitted tremendously from Prof. Rollinson's thorough research and observations. At the same time, we regret the inclusion in Prof. Rollinson's study of a report by the National Law Center on Homelessness and Poverty. The National Law Center believes, and advocates in court, that any rule that burdens or inconveniences homeless people is cruel, discriminatory, and unconstitutional. This rule of thumb is applied regardless of whether: a) the standard of behavior reaches everyone, homeless or not; b) the standard of behavior is a necessary element of safety and civility; and c) the standard assists in the rehabilitation of homeless individuals. The AARR has taken opposing positions from the National Law Center in a variety of legislative and judicial forums. The AARR's belief that communities can set minimum standards of conduct in its public places is inimical to the absolutist position of the National Law Center, leading to inevitable disagreements.

The National Center has, for example, raised objections to laws prohibiting aggressive panhandling, referring to these measures and other public conduct regulation as "anti-homeless." These measures, many of which have been drafted and/or defended by the AARR, are aimed at preventing harassing and intimidating conduct, regardless of the homeless status of the individual. To refer to such measures as "anti-homeless" not only degrades the interest all communities have in pleasant public spaces, but condescendingly assumes that homeless people must act in an offensive and threatening manner.

Furthermore, the National Law Center's characterization of these measures in an

---

<sup>1</sup> This report contains specific legislation suggestions. At the same time, the AARR is working on a compilation of model ordinances addressing urban quality of life issues. That compilation, which will include a discussion of the constitutionality of each proposal, is expected to be completed late this summer, and will promptly be provided to city officials.

insult to the citizens and governments of the most progressive, diverse, and caring cities in the country, including San Francisco, Atlanta, Baltimore, Berkeley, Santa Monica, Santa Cruz, Dallas, Seattle, Raleigh, Washington, and Springfield.

Prof. Rollinson's report also mentioned a decision by a California appeals court, striking down an urban camping ordinance. That decision has since been overturned by the California Supreme Court. That Court ruled that states and cities may regulate or prohibit urban camping.

#### IV. Reasons for Hope

Springfield addresses the problems of the Commercial Street area with decided advantages over many other cities: the people involved, the manageable scope of the problem, and the recognition of the nature of the problems facing the homeless. These advantages should make for optimism that the situation will be addressed fairly, compassionately, and successfully.

**The Parties** The AARR works with cities large and small on issues of public spaces and urban quality of life. In our work, we rarely get to see interested parties with such a fair-mindedness and dedication to seeing all aspects of the problem addressed. While the parties in other communities have become bitter enemies who refuse to even acknowledge any legitimate interest of others, the charitable organizations, business groups, and residents of the Commercial Street area appear committed to helping the less fortunate *and* addressing real neighborhood problems.

**The Scope of the Problem** In addition to the human talent brought to bear on Commercial Street issues, Springfield's homeless problem is of manageable scope. Although the city has become something of a magnet for the homeless in the Ozarks Region, the problem is still relatively small. Most "homeless" people in Springfield have a roof over their head at night. The few that do not - including the people creating the most problems for the Commercial Street area - can be helped with the right outreach and the right incentives. Simply put, it is far easier to address a problem involving a few dozen people than one involving hundreds, such as San Francisco or Washington.

**Understanding the Underlying Problem** Finally, all interested parties in Springfield come at these issues with a realistic assessment of the homeless population and the problems the homeless can cause in a community. Prof. Rollinson, city officials, service providers, and neighborhood and community groups all recognize that homeless is almost always the result of substance abuse and/or mental illness. This realization affects both the approach to neighborhood problems that the homeless cause, and the approach to helping the homeless rebuild their lives to establish independence, sobriety, and responsibility. It is not an excuse for

anti-community conduct.<sup>2</sup>

## V. Observations

### A. Legitimate Interests

The AARR was impressed with the dedication of neighborhood activists and small business owners to the future of their neighborhood. We were also impressed with the charitable work being performed by the primary care-givers in the area. Both "sides" have interests that are legitimate, and worthy of respect. These interests should not be disparaged or belittled; and doing so contributes nothing to the cooperative effort needed to achieve pressing and shared goals.

The desire to perform charitable work, and to give to charitable organizations, is part of the human spirit. In addition to helping our fellow man, it relieves the temptation to turn to bureaucratic government entities to address social needs. Charitable providers, moreover, are entirely capable of being good neighbors, providing they have the same respect for others as one would expect from any responsible neighbor, and that they maintain and enforce standards of conduct that provides assurances to those working and living in the area that their interests are being protected.

The community and business groups in the area also have legitimate interests. There is no need to apologize for trying to minimize harmful behaviors that make it difficult to live in an area, drive customers away, and make the area a less attractive place to work, live, or visit. It is not cruel to expect and insist upon minimum standards of conduct, uniformly applied. People who are hurting often hurt other people, and the same problems that leave people without permanent housing and family connections often result in harmful conduct, such as trespassing, litter, public inebriation, and public urination. All people, whether homeless or not, have a responsibility to conform their behavior to fair public standards.

There is also no need to apologize for resisting certain practices of those who do charitable work. Even the best-intentioned people sometimes make mistakes, and all mortals are subject to improvements and can benefit from the suggestions of others. Such suggestions should not be heard to disparage those who work or volunteer at the service providers, the work

---

<sup>2</sup> By comparison, many communities, perhaps motivated by political agendas that have nothing to do with the homeless, have tried to address the homeless problem through additional low-cost housing, cash grants, "shelter on demand," and the like. The result has been to ignore the underlying (and debilitating) problem of the homeless population, while communities face continued problems of street civility, and while taxpayer funds continue to be unproductively consumed.

these organizations do, or the help they are providing. Rather, these suggestions are aimed at reconciling providing services to the homeless and being good neighbors. The fact that an organization does good deeds provides no exemption from standards of conduct expected of others in the community. Indeed, their responsibility is augmented, because of the increased probability of harmful conduct by the clients. These responsibilities include adopting and enforcing standards of conduct inside their facilities, applying strict guidelines for admission into the facility, as well as ensuring that their host community will be protected to the greatest extent possible.

Finally, economic development is not a bad word. There is no per se value in a desolate neighborhood where only the downtrodden want to visit. Community development brings greater returns on investments, more jobs, enhanced quality of life, and greater opportunities for residents and visitors to Springfield. Again, maintaining and improving economic development is not inconsistent with providing help for the homeless, provided standards of public conduct are enforced, and provided that the charitable organizations act in a neighborly fashion. It is to these two goals that this report is addressed.

B. The Commercial Street Situation is a City-Wide Problem

The city should recognize that its homeless population is a city-wide problem. As such, it warrants the attention and assistance of city leaders and residents throughout the city. We observed that the homeless and those attending to their needs are regarded in Springfield as a "Commercial Street issue."

Similarly, because the Commercial Street residents and businesses are bearing a disproportionate burden by hosting the city's principal service providers, the community should receive a greater share of police and city attention to alleviate the negative effects of carrying this burden. This is not currently the case.

C. Springfield as a Magnet for the Homeless

Springfield, as Prof. Rollinson noted, is becoming a hub for homeless individuals in the region. While the city's proximity to Branson provides some explanation for this,<sup>3</sup> homeless "hubs" are primarily created by a city's reputation for a free ride. That is, street people come to know that benefits are available in an area without cost. And, for many, the primary "cost" to be avoided is intervention and attention to substance abuse problems.

If the suggestions made in this report are implemented, the city should become

---

<sup>3</sup> Branson is a destination for many people looking for employment. Some street people go there and are unable to find or keep a job, possibly due to their substance abuse problem. They then migrate to Springfield and the services provided there.

less of a hub for those who want to live on the street, collect free benefits, and continue their destructive lifestyle. Springfield will do both itself and the homeless a favor when it ceases to be a place where free food and lodging is available to those allowed to continue drinking.

## VI. General Suggestions

### A. Focus on Recovery, Not Rights

It does someone little good to be left on the street. Although many "homeless advocates" and civil libertarians have championed the "rights" to live on the street, sleep in the public place of one's choosing, beg in any place and in any manner one pleases, and to be exempt from standards of conduct that apply to others, such "rights" enable harmful lifestyles and substance abuse, and do nothing to steer individuals to recovery and responsibility. And, while the homeless continue to suffer, host communities are harmed. The result, across the country, has been a gradual abandonment of urban centers, neighborhood deterioration, while the homeless "die with their rights on."

The more successful cities and communities have resisted the rights rhetoric, and focused instead on street order maintenance and steering people to recovery. We are optimistic that Springfield is heading precisely in this direction. We urge the interested parties to continue to resist those, inside and outside, who try to stir them to extremism, resentment, or litigation.

### B. Street Order Maintenance Should Not Wait for Personal Redemption or Societal Reform

Too often, neighbors are frustrated when their immediate problems and concerns are not addressed, and, also too often, opponents of measures needed to address immediate problems try to avoid these measures by insisting on long-term solutions. We urge communities to be wary about "dumping" problems into the abyss of the unsolvable. Moreover, even solvable problems that take time, such as substance abuse, can be addressed while communities take immediate action to make areas more livable.

Our approach assumes that there will be more opportunities for treatment of the street population. Regardless of whether this is the case, efforts at street order maintenance should continue. Even if no help is available for mental illness and substance abuse, most street people will not remain in the area where standards of conduct, no matter how reasonable, are aggressively enforced. Thus, the situation confronting Commercial Street and Mid-Town will be improved with aggressive law enforcement, even if the community cannot or will not make additional treatment available. Finally, jail remains an appropriate response to violating reasonable standards of public conduct.

The AARR, therefore, urges the city to address street-level problems through

legislation and law enforcement, *while* pursuing solutions to the problems of the homeless. Additionally, service providers can change how they operate and become better neighbors, without having to wait until the socio-economic make-up of the city changes. In sum, the city can attend to what it is like to walk down Commercial Street or live nearby, without taking on the responsibility for re-making society.

C. Accept Your Responsible Neighbors

Consistent with our goal to remain in the realm of the solvable, the AARR urges businesses and residents around Commercial Street to stop trying to affect who are their neighbors and fellow property owners.

Presumably, the host communities would not want The Kitchen or Victory Mission to pick and choose amongst the stores in the area, deciding who stays and who goes. Similarly, the stores and businesses should respect the results of the market in property, and acknowledge that service providers are in their area and are their neighbors. This acceptance does not - and should not - mean that the neighborhood is not entitled to neighborly conduct by these providers. But, insisting upon The Kitchen down-sizing, or moving, is trying to interfere with how private property is used, invites legal hassles, and sets a bad precedent. In our view, neighbors have a legitimate interest in how people act, not who they are. The fact that people in the neighborhood are homeless, if they are on the road to recovery and if they behave in a responsible fashion, is no more relevant than if their neighbors were Jewish or Roman Catholic.

To emphasize, there is no shame in being poor, or in being on the road to recovery from substance abuse problems. Such people can and do make good neighbors. The fact that some residents or some customers may prefer to avoid such people is not addressable in a free society. Mere dislike is never a legitimate grounds for governmental action, even if such dislike results in diminishing property values. Such an economic event is unfortunate, not actionable.

Instead, the city, and the Commercial Street community, would benefit from focusing on unreasonable conduct on the city's property, specifically its streets and sidewalks. Of course, the city should increase its focus on trespasses and involuntary use of others' property.

VII. **Recommendations**

A. Get as Much Substance Abuse treatment Help as Possible

All parties to this issue - shelter-providers, community residents, city officials, and business owners - have an active interest in doing whatever they can to get treatment providers into the picture. This means exploring the availability of treatment funding from federal, state, and private sources, as well as encouraging volunteer treatment providers. The

Kitchen has been extremely successful at eliciting the volunteer assistance of cooks, doctors, and social workers. These functions are useful, but are not as central to the solution as treatment providers.<sup>4</sup>

Every person helped through substance abuse treatment represents not only a personal success, but also one less person to cause problems for their host communities. Thus, it is no excuse that there is not "enough" resources to help everyone who needs it. It is far better to take one person and at a time, and help as many as you can. Communities are improved that way, incrementally.

B. Role of the City

1. Scope of the City's Responsibility

The City has the authority to address some - but not all - of the problems on Commercial Street. It cannot do everything, but must do what it can to fulfill its responsibility: to maintain safety and civility in its public spaces.

The City's attention, therefore, should be on what is occurring on the streets of Springfield, and to prevent and deter harmful acts on other people's property. It can do very little about how social service providers operate, and thus can leave reforms there to others.<sup>5</sup>

Furthermore, the fact that the need (and calls) for police assistance in the Commercial Street area may not be for violent crime does not diminish the community's claim on police services. Street order problems are important, and ignoring them leads to a cycle of decline that brings with it abandonment and violent crime.<sup>6</sup>

In taking actions, the City should recognize that the Commercial Street area is bearing a disproportionate burden of the entire city's efforts to address the needs of its homeless

---

<sup>4</sup> The United Way and faith communities are potential and currently untapped sources of help.

<sup>5</sup> It is unclear whether local governments can restrain the physical growth of social service providers. The United States Supreme Court has ruled that, under the Fair Housing Act, single-family zoning ordinances may not be used to prevent group homes for recovering substance abusers. See *City of Edmonds v. Oxford House, Inc.*, 1995 U.S. Lexis 3183 (May 15, 1995). The continued viability of other zoning laws when they affect recovering people is very much in doubt.

<sup>6</sup> See George L. Kelling, "Measuring What Matters: A New Way of Thinking About Crime and Public Order," 2 *City J.* 21 (1992).

population. The residents therefore have a greater claim on police services.

## 2. Public Conduct Controls

Like other property owners, municipal governments have to set rules of conduct on the use of their property in order to facilitate its use for the purpose it was intended, and to protect the users of that space from harm and fear. Although public entities, unlike private property owners, have constitutional restraints on what limitations they can impose, these constraints, contrary to the positions taken by some, place few limitations on reasonable rule-setting.

There is no constitutional right to act as one pleases on a public street or public sidewalk. Regulations and restrictions are permissible to facilitate the flow of vehicular and pedestrian traffic, to promote commerce, to protect the safety of others, and to preserve an environment welcoming to all.

Although there have been many constitutional challenges to ordinances that affect, inconvenience, or alter the behavior of homeless people, most recent court decisions have rejected these challenges. Most especially, the California Supreme Court, earlier this month, upheld a city-wide prohibition on "urban camping." The plaintiffs in that case had argued that the ordinances punished the "status" of being homeless, and that people without homes have a right to make a bed on public property. The Court responded that governments are under no obligation to provide anyone with a place to sleep, whether in an apartment, shelter, or park.<sup>7</sup> Similar federal court decisions upheld actions by Huntsville, Seattle, San Francisco, and Dallas.

We propose that Springfield enhance the realm of prohibited conduct on its streets and sidewalks. We see two benefits in doing so. First, the raised minimum standards of public conduct call for a higher level of civility, making the Commercial Street area - and other city neighborhoods - more pleasant places to live, work, and shop. The conduct at which our proposed measures are aimed is inimical to safe, attractive, vibrant public areas. Moreover, the prohibition of this conduct leaves plenty of room for liberty of choice, conduct, opinion, etc. In short, the constitutional rights of all residents and visitors to Springfield are respected and maintained.

Second, the expanded set of ordinances increases the opportunity for the police to act as intervenors in the substance abuse habits of the homeless. Most substance abusers do not turn to programs of recovery on their own. Rather, they do so only after active interventions which break the pattern of substance abuse. For instance, family members and colleagues who previously enabled substance abuse by ignoring or tolerating it can change the situation by suddenly saying no, leaving the individual with a choice of reform or some negative

---

<sup>7</sup> See *Tobe v. City of Santa Ana*, 9 Cal.4th. 1069 (1995).



consequence.

In an ideal situation, such intervention comes from friends, family, or co-workers. That cannot always be the case, and law enforcement remains a viable alternative source of intervention. Indeed, many substance abusers do not "see the light until they feel the heat." This intervention is at its most purposeful if law enforcement opens a path towards substance abuse treatment.

We propose that the City adopt ordinances that would enable the police to make arrests for the following:

- \* Littering
- \* Public elimination
- \* Camping on the street
- \* Public intoxication<sup>8</sup>
- \* Drinking in Public
- \* Excessive (unreasonable) noise
- \* Restrictions on aggressive solicitation<sup>9</sup>

The AARR has produced some model ordinances addressing these issues, which we include in this report.<sup>10</sup>

---

<sup>8</sup> Public drinking appears already to be a violation [City Code, § 26-3], although public drunkenness is not.

<sup>9</sup> Begging is now prohibited in Springfield [City Code § 26-1]. However, begging may be constitutionally protected. *See Loper v. New York City Police Department*, 999 F.2d 699 (2d Cir. 1993). We therefore recommend a more tailored measure aimed at aggressive panhandling and panhandling where it is especially intrusive. We note that, although some people told us that panhandling was not a problem in the city, others cited a small cottage industry of beggars with cardboard signs.

<sup>10</sup> As we noted, we intend to issue a more detailed and comprehensive compilation of model ordinances later in the summer.

In addition to the legislation suggested above, the city should consider more aggressive enforcement of laws against prostitution. This could involve simply arresting more prostitutes and johns. Portland, Oregon, however, adopted an ordinance declaring that the cars used by the customers of prostitutes are nuisances, thereby making these vehicles subject to seizure and forfeiture. The market for prostitutes dried up quickly when people had to explain to their spouses (or rental car companies) why they were returning without the Buick. Such an enforcement method avoids the expense of a jail term, while providing a (very) effective deterrent.<sup>11</sup>

We also call upon the City to increase its enforcement of prohibitions on abandoned cars. Finally, the City should seek the state's assistance to cut down on (illegal) food stamp sales.

### 3. Expanding the Police Presence in the Commercial Street Area

Adopting the needed ordinances is a useful step, but cannot get the City where it wants to go. New and old ordinances need vigorous enforcement, and the Commercial Street area needs an expanded police presence.

Walking the beat can encourage people living on the street to go elsewhere, or seek-help. It also increases the chance of apprehending someone who violates one of the conduct ordinances. Furthermore, an increased police presence will generate the message that the area has not been abandoned, that it is an area with civility and rules, and that law-abiding people can enter with confidence. The alternative is to abandon the Commercial Street area to further decline.

### 4. Enforce and Expand the Reach of State Laws

We believe that the City should explore possibilities of expanded civil commitment of the mentally ill. Existing state statutes should be used to the greatest extent possible. If the City finds that the Missouri statute is insufficient, it should call upon its state legislature to expand the scope of the law. More likely, the current law is either being under-utilized or interpreted so as to unnecessarily limit its effect. Recently, the New York Court of Appeals ruled that prior conduct and psychiatric predictions of future behavior may be taken into account in determining whether a person is "currently dangerous."<sup>12</sup> This expanded the scope of

---

<sup>11</sup> Once a forfeiture is pursued, the Double Jeopardy clause of the Constitution may prevent charging the driver with an act of prostitution. *See Austin v. United States*, 113 S.Ct. 2801 (1993).

<sup>12</sup> *See In re Francis S*, Supreme Court (New York, Appellate Division (November 15, 1994).

people subject to civil commitment, while sparing communities of mentally ill people who threaten them. Of course, it also opens up avenues to providing vitally needed medical assistance to seriously ill people.

#### 5. Outreach Worker

In addition to providing the police attention and resources needed to protect the Commercial Street and Mid Town areas, the city should consider hiring an outreach worker to try to bring street people to treatment and services. Such outreach work can come from the private sector, but the city could stand-in if necessary.

Aggressive outreach has been successful in a number of cities in diminishing the street population. And, once in recovery, a person is far less likely to engage in behaviors that harm their neighbors and generate a need for police resources.

#### 6. Education Campaign

The City, and the interested parties, need to do what they can to educate the wider Springfield community about the nature of homelessness, and the appropriate response to it. Such an education campaign could focus resources where they are doing the most good, generate political support for supplying the Commercial Street area with more city resources (in return for the area hosting most of the social service providers), and to retain a city-wide interest in the rehabilitation of its homeless population. Hopefully, such an education campaign will enable people to distinguish between those who engage in community-destructive behaviors and others who simply look like the first group.

### VIII. Role of the Providers

#### A. Practicing Tough Love

##### 1. Saying No

The City can only do so much to ensure safety and civility on Commercial Street. All residents of Springfield need, and should be able to count on, the cooperation of social service providers in the area to do their part.

The Commercial Street providers have a dual responsibility. First, they have a responsibility to be good neighbors. This responsibility is augmented (and exceeds that of other property owners) because they are dealing with a troubled population whose history of harmful conduct requires special care and attention. Just as those who hold hazardous materials have a special responsibility in the common law of negligence, those who house and provide services for a substance-abusing population have a higher standard of care as well.

The second responsibility of providers is to their clients. Happily, the same measures which will help protect the neighborhood also service to encourage rehabilitation of substance abusers, and provide care and treatment of the mentally ill. In other words, by doing good to their host community, the Kitchen and the Victory Mission will do good by their clients as well.

Service providers to the homeless should focus their programs and energies on enabling recovery, rather than enabling addiction. This is done primarily through providing substance abuse treatment, leading clients to treatment, and tying services to sobriety and adhering to the recovery process.

Tying services to sobriety requires a "tough love" approach. At times, this means saying no and turning away people who are drunk or who relapse. Turning away, moreover, means exactly that: no services, whether food distribution, shelter, counseling, or otherwise, should be provided to those who are drunk. The shelter doors must be closed to those who would encourage addiction to those on the inside, disrupt the provision of services within these facilities, tempt recovering addicts, and harm their neighbors through anti-social conduct and a drunken presence on the street.

Not saying no means that the organizations are being poor neighbors. Just as any resident is a nuisance to her neighbors if he consistently allows drug dealers into his home, service providers would be a nuisance if they consistently allowed drunks into their facility.

Such a "tough love" approach is not cruel, and is not inconsistent with the mission of these organizations. Helping this population not only includes a meal and a place to sleep, but a road out of the cycle of homelessness. The goal should be rehabilitation, not an endless series of handouts.

## 2. Tying Services to Recovery

Once a client is in the door, receiving services, they should only be allowed to continue to do so if they are on the road to recovery. Neither the Kitchen nor the Victory Mission does anybody any good if they serve as a drunk tank, or a human warehouse. Such a role announces that these facilities have decided to be a permanent and active blight on their neighborhood.

It appears, from our visit, that the leaders of these facilities have no such intention, and the issue therefore is following through with their far more positive and neighborly intention by enforcing these "tough love" rules.

### 3. Tying Services to Neighborly Conduct

Tying services to recovery should be accompanied by tying services to neighborly conduct. Just as no one would want to live near a neighbor who constantly invites guests who defecate on lawns, leave litter, or rummage through people's trash cans, The Kitchen and the Victory Mission should not provide a haven for such behaviors either. If the providers know that someone is littering - or engaged in conduct covered by the suggested ordinances above - that person should be sent away.

Adoption of this policy tells recipients of the providers' services that benefits come with elementary responsibilities which all but the most severely mentally ill are capable of following.<sup>13</sup> The recognition of personal responsibilities is a crucial step in the recovery process and the adoption of lifestyles that enable employment and healthy inter-personal relationships. Doing so also ensures that limited charitable resources go where they can do the most good, and helps protect the host community.

### 4. Service Providers as Intervenors

In addition to turning away those who are drunk or who engage in anti-social conduct, the providers should also use their services as a venue for intervention. Meals, for example, are an opportunity for urging participation in Alcoholics Anonymous meetings and other recovery steps. Rather than passive distributors of goods and services, the providers then become active sources of aggressive outreach, and thus encourage and participate in recovery and redemption.<sup>14</sup>

Having the attention of the client population, during meals and other services, is also an opportunity for training in good citizenship. The providers can announce and emphasize standards of conduct, such as the "No Loitering" sign already in the window of the Victory Mission. Signs and talks should also be used to address such topics of littering and trespassing.

### 5. Tailor Free Groceries to Clients' Needs

We recommend that The Kitchen focus its provision of groceries to the actual needs of their clients. Providing "standard packages" of groceries is logistically easier. However, too often, clients who do not need particular items simply toss them on the street, furthering the litter problem in the area. By asking clients whether they need, for example, a

---

<sup>13</sup> Those who are so mentally ill as to be unable to conform their conduct to such rules should be civilly committed.

<sup>14</sup> Doing so, moreover, assures the providers that they tried to help, before turning someone away for failing to adhere to a program of recovery.



toothbrush, can cut down on litter, and preserve donated and purchased goods for those who need them the most.

#### 6. Social Service Providers as Good Neighbors

The suggestions in this Section are aimed at enabling recovery and ceasing to enable addiction. The providers can also be an affirmative source of help to their host community. We recommend that the providers, with the help of their clients, engage in periodic neighborhood clean-ups. Not only does doing so recognize that the client population is a major source of litter in the area, but it provides the clients with a source of vocational training, and a reminder that we share responsibilities to our community. Having the providers join with other area businesses in such clean-ups can also facilitate understanding and cooperation. Such joint activities do not have to be limited to chores; joint block-parties (sober only, of course) can also achieve that goal.

#### 7. Consult with the Community

The providers could assist neighborly relations, and alleviate concerns, by agreeing to consult with the Commercial Club and the residents association about changes in plans, operations, and facilities. While the providers cannot be made to agree with the wishes of the community, or conform to them, they will have at least listened, and gained the benefit of perceptions about the impact its changes and plans have on the host community.

### IX. Concentration and Size of the Service Providers

The foregoing is aimed at restrictions on certain conduct, the policies and practices of the service providers, and the attitude by the residents and business owners in the Commercial Street area. This report has not addressed the size of the providers, or the population of their client base.

As previously noted, we see no legitimate interest in deciding what kind of service provider moves into any particular storefront or building. Indeed, in many cases, the providers have improved the appearance of buildings and contributed to the aesthetic qualities of the area. At the same time, we heard frequent views to the effect that the providers have grown too big. Indeed, The Kitchen has experienced phenomenal growth in the past few years, accompanied by an increase in funding that profit-making businesses in the area only dream about.

We agree that the Commercial Street area has borne a disproportionate burden of social services in Springfield. The City could use its zoning power (barring further hostile court decisions) to limit the physical size of these institutions. It may be preferable, however, for the providers to agree to a moratorium on growth. This provides assurances to the host community

that they will not be taken-over or overwhelmed, while providing a "cooling off" period, during which the providers can demonstrate their enhanced commitment to being good and cooperative neighbors. During this period, of course, the providers can continue providing food, shelter, counseling, medical care, etc. to its client base.

We believe that there should be an exception to any moratorium that allows the addition of drug treatment programs. The need for these programs is so pressing that, while it does matter where such programs take place, the net gain from drug treatment facilities is so great that the community would benefit even if they were placed in the Commercial Street area.<sup>15</sup>

Along with a moratorium on growth of The Kitchen and the Victory Mission, the City should, to the extent possible, promise the residents and businesses of this area that no additional providers will come to the area for two years.

Although we see a value in a moratorium on growth, we see no value in deconcentration for deconcentration's sake. Unless and until the providers' efforts are geared to recovery, all deconcentration would accomplished would be a spreading of disease. It seems preferable to address a disease where it occurs. Then, if deconcentration occurs in the future, it will mean neighborhoods playing host to those seeking to better themselves, rather than holding stations for substance abusers.

#### **X. Form of Agreement**

This report suggests a number of reforms and changes at the social service providers. We also suggest that the providers put their assurances in writing. In other words, the list of reforms that they have agreed to (whether derived from this report or otherwise) should be explicitly set forth in a "contract" with the residential and business community groups.

All contracts have two sides. The community and business groups, in return, should expressly acknowledge that they accept the providers as neighbors, and to cooperate in joint efforts such as neighborhood clean-ups.

#### **XI. Bars and Liquor Stores in the Area**

The Kitchen and the Victory Mission contribute to some of the problems in the Commercial Street area, but they are not the sole source of troubling neighborhood difficulties. The bars and liquor stores contribute to neighborhood deterioration and incivility if they serve

---

<sup>15</sup> Such an addition does not have to mean an expansion of the physical plant, or an expansion of the client population.



inebriated people, or if they sell single servings of beer and wine "to go." Not only do such business practices substantially contribute to the destruction of another person, they facilitate neighborhood-destructive behaviors.

Serving inebriates is already against the law. Such laws should be enforced by the state licensing authorities, and through community pressure. The neighbors can hold vigils and other forms of protests if the businesses are recalcitrant. First, of course, there should be an opportunity for neighborly conduct. We recommend, therefore, that the owners of these establishments be invited to the weekly breakfast meeting of the Good Neighbor Alliance, where neighborhood concerns can be shared with them. At these meetings, the owners and managers of these establishments should be asked to do what they can to protect the interests of the host neighborhood.

In addition, the bars and liquor stores should be encouraged to routinely card people. Those who cannot provide their age, regardless of how old they look, should be refused service.

In addition to changing some of the practices of existing alcohol providers in the area, the area should also be protected from additional liquor licenses.

In short, the bars and liquor stores on Commercial Street warrant community attention and concern to the extent that they are nuisances. Operating a legitimate business includes being responsible towards your host community, and not feeding into the destructive problems of individuals and the community. Doing so is not inconsistent with running a profit-making business.

## **XII. Conclusion**

It has been an honor for the AARR to participate in this project. We believe that the City of Springfield has much to be encouraged about, and can address its homeless and street civility issues with a high degree of confidence.

The interested parties should understand, as most do, that they have disagreements and different interests - but they do not have enemies. With changes, property values should go up, the business environment should improve, street safety and civility should increase, and more people helped find the road to recovery.

There are no magic bullets. Rather, there are suggested reforms - for the city, neighbors, businesses, and social service providers - which will contribute to getting closer to the shared goal: fostering a livable community. The very talented people that have been involved in this process can and should go further. The AARR believes that they will. When they do, life in the Commercial Street area will not become perfect, but the level of attraction, safety, services, and civility should increase.

APPENDIX

**DRAFT COMPENDIUM OF MODEL ORDINANCES  
AIMED AT  
REGAINING PLEASANT AND USABLE PUBLIC SPACES**

**THE AMERICAN ALLIANCE FOR  
RIGHTS & RESPONSIBILITIES**

*{This compilation will be revised and expanded by the AARR later this year}*



## MODEL ANTI-PUBLIC SLEEPING ORDINANCE

### Comment:

*This measure is aimed at maximizing the use of parks for the purpose for which they were intended. Many people who enter urban parks and squares experience them as colonized by people who have made these areas their residence. While parks were designed to be places of relaxation, conversation, contemplation, reading, and so forth, they will not be used for these purposes when they are littered with camping accouterments. Today, entering many urban parks means tripping over homeless encampments, run a gauntlet of people asking them for money, stepping over needles and other drug paraphernalia, or have to search during their lunch-hour for a park bench that is not someone's bed. Moreover, these parks lack facilities for overnight camping, leaving litter and sanitation problems that arise from people sleeping there.*

*Prohibiting overnight sleeping in public parks is consistent with general land use requirements: the parks are simply not made, designed, or best used for such activity. The ordinance maximizes the use of the parks. Those currently using the parks as residences will have to be directed to more appropriate places, or will be encouraged to seek such places for themselves. By removing the option of sleeping on the park bench, we will hopefully have more people seeking assistance for their substance abuse or mental health problems that drive homelessness, while returning to the community its place for meeting and serenity.*

### Section 1. Encampment

A. No person shall camp in any public park or street, except in areas specifically designated for such use.

#### B. Definitions

For purposes of this ordinance:

1. "Camp" shall mean residing in or using a park for living accommodation purposes, such as sleeping activities, or making preparations to sleep, or storing personal belongings, or making any fire or using any tents, regularly cooking or preparing meals, or living in a parked vehicle.
2. "Making preparations to sleep," shall include, but is not limited to, laying down of bedding for the purpose of sleeping.
3. "Personal belongings" includes, but is not limited to, clothing, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware, and similar material.
4. "Public parks" include all municipal parks and beaches.
5. "Public street" includes parking lots and any public area, improved or unimproved, public sidewalks, and public benches.

C. The activities set forth in Subsection B-1 constitute camping when it reasonably appears, in light of all the circumstances, that a person(s) is using a park as a living accommodation.



Section 2.

- A. Except as provided in subsection B, any person who violates this Section shall be guilty of a civil violation.
- B. Any person who violates this Section and has previously violates this section, or has failed to appear as directed when served with a citation and notice to appear for a violation of this Section, is guilty of a misdemeanor.

**Section 3. Severability.**

If any section, sentence, clause or phrase of this Ordinance is held invalid, or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

## MODEL PUBLIC INTOXICATION ORDINANCE

### *Comment*

*A person who is drunk in public presents the community with a myriad of problems. First, he subjects the community to the unpredictable and often dangerous behavior generated by intoxicated persons. Second, it generates a message that the area has been disregarded, and is one where pathology is tolerated, and where civility and order are not important. Third, it allows the intoxicated person to engage in irresponsible conduct without consequence.*

### Section 1.

A. It shall be unlawful for a person to:

1. open a bottle, can, or other receptacle containing liquor in a public place;
2. Possess an open bottle, can, or other receptacle containing liquor in a public place; or
3. Consume liquor in a public place
4. To loiter in a public place while intoxicated.

### Section 2.

"Public place," as used in this section, means an area generally visible to public view and includes alleys, bridges, buildings, street corners, driveways, parking lots, parks, plazas, sidewalks, and streets, and the doorways and entrances to buildings and dwellings.

"Intoxicated," as used in this section, means having a blood alcohol content equal or above the level required for conviction for driving under the influence of alcohol under {enter appropriate state code provision}, or to be under the influence of narcotics not prescribed by a physician.



Section 3.

A. Except as provided in subsection 3-B, any person who violates this section is guilty of a violation.

B. Any person who violates this Section and previously has either violated this section of failed to appear as directed when served with a citation and notice to appear for a violation of this Section is guilty of a misdemeanor

Section 4. Severability.

If any section, sentence, clause or phrase of this Ordinance is held invalid, or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

## MODEL PEDESTRIAN INTERFERENCE ORDINANCE

### *Comment*

*The public should be able to walk down a public sidewalk unencumbered. Standing in someone's way is more than rude, it blocks their progress, makes their walk more cumbersome, and increases the possibility of altercations and accidents. The presence of such obstacles deters use of urban areas, thus diminishing commercial activity and civic interaction.*

### Section 1.

A person is guilty of pedestrian interference if, in a public place, he or she intentionally obstructs pedestrian or vehicular traffic.

### Section 2.

As used in this Section, "obstruct pedestrian or vehicular traffic" means to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact.

### Section 3.

A peace officer must view conduct in violation of Section 1 prior to making an arrest under this ordinance.

### Section 4.

Acts authorized by statute or the United States Constitution to picket or to protest, and acts authorized by permit issued pursuant to the {street use regulation} shall not constitute obstruction of pedestrian or vehicular traffic.

#### Section 4.

As used in this section, "public place" means an area generally visible to public view and include alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks, and streets, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

## MODEL SIDEWALK USE ORDINANCE

### *Comment*

*In some cities, public sidewalks have become virtual obstacle courses. When people use them as inappropriate rest stops, or as beds, the general public is forced to the sidelines, to get out of the way. Use of this sidewalks is inhibited, and people are motivated to avoid the area altogether. Businesses also depend upon their customers have relatively easy access to their stores and offices - access which is directly impeded by people using the sidewalk to sleep or lie down.*

### Section 1.

No person, after having been notified by a law enforcement officer that he or she is in violation of the prohibition in this section, shall sit or lie down upon a public sidewalk, or upon a blanket, chair stool, or any other object placed upon a public sidewalk.

### Section 2.

The prohibition in Section 1 of this Section shall not apply to any person:

1. sitting or lying down as a result of medical emergency;
2. who, as a result of a disability, utilizes a wheelchair or similar device to move about the public sidewalk;
3. operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a street use permit;
4. persons participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event pursuant to a street use or other permit;
5. sitting on a chair or bench located on a public sidewalk which is supplied by a public agency or by the abutting private property owner;
6. sitting on a public sidewalk within a bus stop zone while waiting for public or private transportation;

### Section 3.

Nothing in this Section shall be construed to permit any conduct constituting pedestrian interference under this Code.

### Section 4.

A violation of this section shall be a civil infraction.

## MODEL ANTI-PUBLIC ELIMINATION ORDINANCE

### *Comment*

*The use of public spaces as bathrooms creates health and sanitation problems. It drives people away from public spaces with revulsion, leaving the message that the area is unwelcoming, and unfit for social or commercial interaction. If there is a time and a place for everything, the streets are not the place, at any time, for urination or defecation.*

### Section 1.

A. A person is guilty of public elimination if he or she intentionally urinates or defecates in a public place, other than a washroom or toilet room, under circumstances where such act could be observed by any member of the public.

B. "Public place," as used in this section, means an area generally visible to public view and includes alleys, bridges, buildings, street corners, driveways, parking lots, parks, plazas, sidewalks, and streets, and the doorways and entrances to buildings and dwellings.

### Section 2.

A. Except as provided in subsection 2-B, any person who violates this Section shall be guilty of a civil violation.

B. Any person who violates this Section and has previously violates this section, or has failed to appear as directed when served with a citation and notice to appear for a violation of this Section, is guilty of a misdemeanor.

to city-owned or city-funded shelters until six months have passed since the last determination of such a violation.

Section 10.

This ordinance is not intended to proscribe any demand for payment for services rendered or goods delivered.

## A MODEL ANTI-AGGRESSIVE SOLICITATION ORDINANCE

### Comment

*Some communities have attempted to address the problem of urban security and civility by attempting to prohibit all panhandling. Such measures can be seen as attempts to protect the public, and to lead people away from a life on the streets. Begging bans, if enforced, would greatly contribute to the safety, civility, and serenity of public spaces, and would be easier to enforce.*

*Despite the efficacy of complete begging prohibitions, many local governments are likely to conclude that people should have an opportunity to passively seek charity and therefore prohibit only the more aggressive methods of panhandling. This more tailored approach also increases the chance that their ordinance will survive a constitutional challenge. This approach does allow some bothersome conduct, and forgoes the use of an easy "bright line," but allows people to passively solicit alms or to peddle goods.*

*This ordinance lists specific actions that are prohibited when they occur in the context of begging, while allowing beggars to say anything they please on the street. Thus, any First Amendment attack would have to assert that one's constitutionally protected right to free expression includes physical contact, causing fear, nagging them, or blocking their way.*

### Section 1. Legislative Findings.

The council finds that the increase in aggressive solicitation throughout the city has become extremely disturbing and disruptive to residents and businesses, and has contributed not only to the loss of access to and enjoyment of public places, but also to an enhanced sense of fear, intimidation and disorder.

Aggressive solicitation usually includes approaching or following pedestrians, repetitive begging despite refusals, the use of abusive or profane language, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic. The council further finds that the presence of individuals who solicit money from persons at or near banks or automated teller machines is especially troublesome. Such activity carries with it an implicit threat to both persons and property.

This law is timely and appropriate because current laws and city regulations are insufficient to address the aforementioned problems. The restrictions contained herein are narrowly tailored to serve a substantial governmental interest. The law is not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in other constitutionally protected activity. Its goal is instead to protect citizens from the fear and intimidation accompanying certain kinds of solicitation that have become an unwelcome and overwhelming presence in the city.

### Section 2.

#### Definitions.

For purposes of this section:

(1) "Aggressive manner" shall mean:

(a) Approaching or speaking to a person, or following a person before, during or after soliciting, asking, or begging; if that conduct is intended or is likely to cause a reasonable person to (i) fear bodily harm to oneself or to another, damage to or loss of property, or the commission of any offense as defined in section ten of the penal law upon oneself or another, or (ii) otherwise be intimidated onto giving money or other thing of value;

(b) Continuing to solicit, ask, or beg from a person after the person has given a negative response to such soliciting, asking, or begging;

© Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting, asking, or begging;

(d) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact; or

(e) Using violent or threatening gestures toward a person solicited.

(2) "Solicit, ask, or beg" shall include using the spoken, written, or printed word, or bodily gestures, signs, or other means with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services.

(3) "Public place" shall mean a place to which the public or a substantial group of persons has access, and includes, but is not limited to, any street, highway, parking lot, plaza, transportation facility, school, place of amusement, park, playground, and any hallway, lobby and other portion of an apartment house or hotel not constituting a room or apartment designed for actual residence.

(4) "Bank" shall mean any banking corporation as defined in section 11-640 of the code.

(5) "Check cashing business" shall mean any person duly licensed by the superintendent of banks to engage in the business of cashing checks, drafts, or money orders for consideration pursuant to the provisions of article 9-A of the banking law.

(6) "Automated teller machine" shall mean the area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

### Section 3. Prohibited acts

(1) No person shall solicit, ask or beg in an aggressive manner in any public place.

(2) No person shall solicit, ask or beg on private or residential property without permission from the owner or other person lawfully in possession of such property.

(3) No person shall solicit, ask, or beg within twenty feet of any entrance or exit of any bank or check cashing business or within twenty feet of any automated teller machine or check cashing business hours of such bank, automated teller machine or check cashing business without the consent of



the owner or other person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility. Nothing in this paragraph shall be construed to prohibit the lawful vending of goods or services within such area.

(4) No person shall approach an operator or other occupant of a motor vehicle while such vehicle is located on any street, for the purpose of performing or offering to perform a service in connection with such vehicles or otherwise soliciting the sale of goods or services. Provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passenger of such vehicle.

#### Section 4. Penalties.

Any violation of the provisions of this section constitute a misdemeanor punishable by imprisonment for not more than thirty days or by a fine not to exceed five hundred dollars, or by both.

#### Section 5. Severability

If any section, sentence, clause or phrase of this Ordinance is held invalid, or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

## MODEL ANTI-EXCESSIVE NOISE ORDINANCE

### *Comment*

*Excessive noise is noise that is unreasonable under the circumstances. In certain instances, people expect and even welcome very loud noises, such as at concerts, firework displays, parades, and with ambulances. However, unwanted and unnecessary noise can be an intrusion equal to that of unwanted touching. It prevents reading, concentration, and conversation, and actively deters use of parks and squares. Furthermore, limiting the volume at which people may speak provides no interference on their right to express themselves. They may do so, providing they respect the interest of others in not listening when they choose not to do so. Noise limitations, furthermore, reach all speakers and all messages, and are thus entirely content-neutral. The model ordinance also reaches speech intended to incite violence.*

### Section 1.


"It shall be unlawful for any person to willfully disturb any neighborhood or business by making or continuing loud noise unreasonable under the circumstances.

### Section 2.

No person shall be cited or arrested for violating this Section unless he/she has been notified by a law enforcement officer that he/she is violating this Section, and, after said warning, continued to violate this Section.

September 23, 1996

TO: Katy Spangler, Good Neighbor Coalition  
Sister Lorraine Biebel, The Kitchen  
Reverend Jim Harringer, The Victory Mission  
Lavette "Bud" Eskew, Commercial Club  
Brenda Eyman, Mid-Town Neighborhood Association  
Dr. Paul Rollinson

FROM: Ralph Rognstad Jr.   
Assistant Director

Attached are Rob Teir's written comments from his last visit to Springfield. Let me know if you need additional copies.

RR/bjh

Attachment

TEIR.COM

BRENDA EYMAN PRESIDENT  
MID-TOWN NEIGHBORHOOD  
1316 N BENTON  
SPRINGFIELD MO 65802

KATE SPANGLER SECRETARY  
1223 N ROBBERTSON  
SPRINGFIELD MO 65803

SISTER LORRAINE BIEBEL  
THE KITCHEN  
424 E COMMERCIAL  
SPRINGFIELD MO 65803

REVEREND JIM HARRINGER  
VICTORY MISSION  
203 W COMMERCIAL  
SPRINGFIELD MO 65803

LAVETTE "BUD" ESKEW PRESIDENT  
COMMERCIAL CLUB  
305 E COMMERCIAL  
SPRINGFIELD MO 65803

DR PAUL ROLLINSON  
711 E LOREN  
SPRINGFIELD MO 65807

# OBSERVATIONS AND SUGGESTIONS

Presented to

The City of Springfield, Missouri

The Commercial Club  
The Kitchen  
Midtown Community Association  
The Victory Mission of Springfield

Summer 1996

By Rob Teir  
General Counsel  
American Alliance for Rights & Responsibilities

2001 Ross Avenue, 35<sup>th</sup> Floor  
Dallas, Texas 75201-2997  
(214) 922-9822  
National Office: (202) 785-7844

## INTRODUCTORY NOTE

The following report is a written version of a presentation made in Springfield this past Spring. The report contains observations of the progress being made in the city, as well as suggestions for where the parties could go from here. The document is intended to supplement the principle (May 1995) report the AARR prepared for the city. It is that report which sets forth the detailed recommendations of our organization for reconciling providing needed services to the homeless and maintaining a safe and vibrant community.

## CONCLUSIONS: THE PROGRESS THAT HAS BEEN MADE

The commercial and residential organizations in the Commercial Street area, and the social service providers, have much to be proud of. First, the people involved in these organizations have demonstrated remarkable and admirable dedication, caring, commitment, and resolve.

Second, the parties have demonstrated a willingness to hear others whose views, at times, have appeared hostile and threatening. Third, the parties have endeavored to understand where others are coming from on these issues, and the constraints, goals, and insights shared by other parties.

Fourth, there has been noticeable and encouraging progress in the area. New city ordinances have helped raise the standard of public conduct in the area (and throughout the city). A police officer, who understands the problems and issues confronting the neighborhood, has been assigned to the street and the surrounding neighborhood.

Progress is also noticeable on other fronts. Communication and trust have grown from negligible levels to being a foundation of future growth. The providers are aiming their policies and procedures at recovery and rehabilitation of their clients. As we have emphasized, this enables service providers to be good neighbors - as well as provide real help to those who need it. Furthermore, the host community has become more cooperative in their dealings with

the providers.

The solutions to the remaining problems confronting the Commercial Street area must come from agreement from the parties who live, work, and provide social services there. Other parties, from outside observers to the city government, can play a part, but progress is most likely (and most rapid) when the parties agree to the path to be followed. Indeed, Springfield's experience has shown that progress is made when the parties are involved in discussions and negotiations on reaching a plan for continued progress.

This compares very favorably with many other communities with whom I have worked - where people are at each others' throats and cannot talk to each other, where bad faith is assumed, and where litigation and hostility are preferred to helping people and getting along. And some people wonder why I enjoy coming to this friendly city.



### AN EXAMPLE FOR OTHERS

The result of these efforts have not only been manifested in the Commercial Street area - the progress and efforts of the people involved in this process has become a model for communities throughout the nation. The attempt at negotiation, communication, and progress of the parties in Springfield has laid the foundation for similar efforts in other cities (large and small), and has raised interest in what is happening in Springfield in communities from New York City to Sacramento, as well as elsewhere in Missouri.

## TWO ADDITIONS

If I were called upon to supplement our May 1995 report, I would add two things:

One: I hope that my visit and the discussions I and Suzanne have had with the interested parties will motivate people to continue with what they have been doing.

I know this is not big news: "you're doing OK, please continue." But you are not simply doing OK - you are doing very well, and it would be a shame for the progress to be permanently stalled. I am very confident that this will not be the case.

Second: I have some thoughts about where continued avenues for agreement can be explored.

## AUGMENTING THE CURRENT AGREEMENT

Agreement?

The term makes many people in the city nervous, and I can understand why. These discussions are occurring against a backdrop of a long-standing mistrust that the parties have gone far to overcome, but is still there to some extent. Also, we are in a litigious age, and the last thing I want to do is create an avenue for excuse or litigation.

But agreement is what is needed, regardless of what it is called.

When I was here last, I envisioned the parties agreeing to a more complex serious of changes and programs. And, yes, I envisioned a non-legally binding agreement in writing. That has not come to pass. What has come to pass is improved communications, widely perceived progress in the safety and attraction of the area, new city ordinances, and greater police and community attention to the area.

And, what has come to pass is the first written **Good Neighbor Agreement**, signed by the four organizations to which this report is addressed.

My observation is that the parties believe that the time is not yet ripe for a complicated written agreement, although I continue to believe that one would be helpful. My

suggestion is to continue what has been started - to reach agreement where agreement is possible, while retaining the open lines of communication without which progress or success is not possible.

One possibility is a two stage progression. First, see if the parties can agree to a joint statement of goals and principles. After that, the parties can talk about specific things they would like other parties to do, and what they themselves are willing to do.

The outline of a potential Joint Statement of Goals and Principles follows.

## PROPOSED JOINT STATEMENT OF GOALS AND PRINCIPLES

### ■Goals ■

1. The parties are committed to improving the safety, security, and attraction of the Commercial Street area, for residents, business owners, employees, and visitors.
2. The parties are committed to making the Commercial Street area conducive to economic development.
3. The parties want those residents of Springfield who need it to receive social services, shelters, and other charitable assistance.
4. The parties want to increase the level of trust in each other, and to maintain useful lines of communication with each other.
5. The parties want to alleviate and avoid divisiveness.
6. The parties want to reduce anti-social behavior that negatively affects the quality of life and the economic vitality of the area.

## ■ Principles ■

1. Most people served by the social service providers in the area can conform their behavior to standards of public conduct.
2. Social service providers can be good neighbors. They can understand the needs and aspirations of those who live and work in the area.
3. Those providing social services have a special responsibility to their community because they are dealing with a troubled population with diminished social skills and experience.
4. Those providing social services are fulfilling an ethical obligation of the larger community, and deserve the respect and admiration of the community for doing so.
5. The social service providers in the Commercial Street area have demonstrated a good faith commitment to listening to community concerns, and seeking to address those concerns in a manner consistent with their mission.
6. The mutual goals agreed upon by the party are not inconsistent.
7. There is a difference between being homeless and engaging in conduct harmful to the community.

8. Standards of public conduct should be the same for those who are homeless and those who are not.
9. Progress is made possible by focusing on what needs to be accomplished, rather than by rehashing old wounds.
10. Social service providers cannot be responsible for all conduct by those to whom it provides services. However, they can and should encourage and motivate people to be good neighbors. Doing so fosters the rehabilitation and recovery of their clients.
11. The problems confronted by businesses and residents in the area are driven by addiction and substance abuse.
12. Anti-social conduct is not a monopoly of the homeless, and business and residents should do what they can to ensure their customers and guests do not engage in anti-social conduct.
13. The Commercial Street area is bearing a disproportionate share of the social service commitment of the Springfield community, and therefore deserves a commensurate level of police attention and city resources.

## SOME IDEAS FOR WHAT THE NEIGHBORS CAN DO

The following lists are intended to generate discussion. It is not the function of the AARR or this report to dictate agreement terms to the parties. Rather, we are hopeful that, by offering a sample list, we can get the parties thinking about what items an agreement could contain, and what would improve the neighborhood.

1. Participate in joint meetings to keep open the lines of communications.
2. Provide jobs and day labor for those served in the facilities.
3. Provide volunteer opportunities for those in the recovery process.
4. Participate in neighborhood functions jointly with the providers and their clients.
5. Participate in a public education campaign about the nature of homelessness and the goals and accomplishments of the providers.
6. Publicly accept their responsible neighbors.
7. Collect change and other donations to these facilities.
8. Tour the facilities.
9. Volunteer in these facilities.



## WHAT THE PROVIDERS CAN DO

1. Participate in joint meetings to keep open the lines of communications.
2. Tie services to the clients not engaging in anti-social conduct - day and night.<sup>1</sup>
  - panhandling
  - public elimination
  - litter
  - trespassing
  - rummaging through trash cans
  - public intoxication
  - excessive noise
  - panhandling
3. Tie services to a person's commitment and progress towards recovery.
4. Signs and talks encouraging community-supportive behavior.
5. Participate in neighborhood and park clean-ups.
6. Ensure that enforcement of rules and procedures continues throughout the day, not just during business hours or when certain personnel are present.
7. Consulting with the community on its plans, including by participating in joint sessions that keep open the lines of communication.

---

<sup>1</sup> This does not have to mean automatic prohibitions/exclusions for each violation; a series of graduated sanctions could be the answer.

### OTHER ISSUES TO BE DISCUSSED

1. How to increase the amount of treatment available in the community
2. How to increase the civil commitment and other mental health treatment in the community.
3. How to increase outreach work.
4. Warrant checks of those offered services at the facilities..
5. The size and scope of the providers
6. The new location of the Victory Mission
7. The Form of the Agreement

## LIQUOR PROVIDERS

The liquor providers in the area present problems that affect both the providers and their host neighborhood. The problem is not only addressable, doing so presents a valuable opportunity to work together.

Consideration should be given for a legislative agenda, addressing such problems

as:

- \* Underage drinking
- \* Selling of single beers and other small quantities of alcohol;
- \* Hours of operation
- \* Rule-setting for the clients of these businesses

### WORTH EMPHASIZING

- ◆ There are dedicated, caring people involved in this process that are the envy of communities across the country.
- ◆ It is not cruel, or anti-homeless, to want a clean and safe place to live and work - and it is not cruel nor anti-homeless to expect and insist upon a standard of conduct.
- ◆ The ordinances adopted by the city are not only valuable - but they are similar to measures adopted by cities widely known for their diversity, tolerance, and social conscious - from Seattle to Berkeley to Baltimore to Philadelphia to Atlanta to Austin.
- ◆ Those that are providing help to the less fortunate members of society can be good neighbors.

## PATIENCE

The parties are following a recipe for success - but the recipe takes a long time.

Most people here recognize this.

Progress is not made by scapegoating, it is made by finding areas of agreement and working on the other issues with a spirit of compromise, respect, understanding, with eyes focused on shared goals and principles.

Springfield has made significant progress - the goal here is to continue that progress.

Patience is a necessary element here. Substance abuse recovery takes time. Neighborhood revitalization takes time - and the deterrence effect of new ordinances and police attention also takes time.

There is a lot of heart and good faith in the community - I have confidence in you - and, I sense, you share that confidence (in yourselves).

## CLOSING

My job includes litigating issues - and debating issues. This can be fun - I am a lawyer - and I spent sixteen years in a city where strife is often a sport.

That said, I have been involved in few projects that have provided more gratification and encouragements than my work with the people in Springfield. I suspect I do not have to repeat the reasons for that.

I know I do not have earth-shattering new recommendations to offer this morning - just some suggestions on agenda items that are worth considering, and the discussion of which should help bring the parties together. I envision continuing progress, for the benefit of the parties in the Commercial Street area, and the city. And, then, I will have even more exciting and encouraging news to bring to the residents of other communities with which I am working.

The services of the AARR have been without charge to the taxpayers of Springfield. We did so because we learn a good deal about your progress - and can spread that word to improve community life elsewhere in the country.

The warm welcome Suzanne Goldsmith and I received here is greatly appreciated - we are honored to be a part of the process, and happy to be back in Springfield.